

Scott H. Jacobs (SBN 81980)
 Christopher O. Rivas (SBN 238765)
 REED SMITH LLP
 355 S. Grand Avenue, Suite 2900
 Los Angeles, CA 90071
 Telephone: 213.457.8000
 Facsimile: 213.457.8080

Attorneys for Defendants
 WMC MORTGAGE, LLC AND
 GE CONSUMER FINANCE, INC.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

PATRICIA C. BARBERA,

Plaintiff

vs.

WMC MORTGAGE CORPORATION, a
 California corporation; aka WMC Direct, a
 California Business Entity; GE Consumer
 Finance, a unit of General Electric Company;
 Select Portfolio Servicing Corp, a Utah
 Corporation; Fairbanks Holding Corporation, a
 Delaware Corporation; and Land Title Company
 of Marin, a California Business Entity;
 Does 1 thru 100, inclusive.

Defendants.

Case No.: 4:08-cv-02677-SBA

Earlier Related Case: 4:04-cv-03738-SBA

**JOINT CASE MANAGEMENT
 STATEMENT OF DEFENDANTS;
 PROPOSED ORDER**

Case Management Conference

Date: September 4, 2008

Time: 2:30 p.m.

Courtroom: 3, Third Floor

Honorable Sandra Brown Armstrong

1 All Defendants have filed motions to dismiss Plaintiff's complaint. Plaintiff failed to oppose
 2 or respond to these motions in any substantive or meaningful way. The motions were set for hearing
 3 on July 29, 2008, but the hearing was vacated and the motions taken under submission by this Court.
 4 The parties await this Court's rulings on the motions.

5 Defendants believe it is premature to discuss and formulate a discovery plan until the Court
 6 rules on the motions, in particular, given that this Court dismissed a nearly identical complaint filed
 7 by Plaintiff in an earlier related action. Therefore, Defendants request that the case be exempted
 8 from Rule 26(f) planning until the above motions are decided and an order entered thereon.

9 Nevertheless, to the extent a Rule 26(f) statement is required, Defendants state as follows:

10 **A. JOINT STATEMENT OF FACTS UNDERLYING THE ACTION**

11 1. A brief description of the events underlying the action:

12 At issue in this case is a mortgage in Plaintiff's name, about which Plaintiff unsuccessfully
 13 brought the same action against these same Defendants in 2004. Among other issues, Plaintiff
 14 alleges improprieties regarding the accounting on the mortgage and foreclosure efforts on same.

15 **B. PRINCIPAL ISSUES**

16 2. The principal factual issues which the parties dispute:

17 Defendants dispute Plaintiff's factual allegations in their entirety.

18 3. The principal legal issues which the parties dispute:

19 Pursuant to the motions for dismissal before this Court, Defendants believe that Plaintiff's
 20 causes of actions are substantively and procedurally deficient. Specifically, the motions assert that
 21 Plaintiff has failed to state a cause of action to support any of her claims, that all of her claims are
 22 time-barred by their respective statutes of limitation, and that the entire action is barred by the
 23 doctrines of claim and issue preclusion.

24 4. The other factual issues [e.g. service of process, personal jurisdiction, subject matter
 25 jurisdiction or venue] which remain unresolved for the reason stated below and how the parties
 26 propose to resolve those issues:

Defendants caused this action to be removed from state to federal court. Plaintiff has filed a motion for remand, which has also been taken under submission by this Court, and upon which the parties await a ruling.

5. The parties which have not been served and the reasons:

Defendants were not properly served in the state court action, but have each and all voluntarily appeared in this action.

6. The additional parties which the below-specified parties intend to join and the intended time frame for such joinder:

Defendants do not currently intend to join any parties, but reserve the right to do so as the facts develop in this action.

C. ALTERNATIVE DISPUTE RESOLUTION

7. Please indicate the appropriate response(s).]

The parties filed a Notice of Need for ADR Phone Conference and are awaiting scheduling of the phone conference.

D. CONSENT TO JURISDICTION BY A MAGISTRATE JUDGE

9. The following parties consent to assignment of this case to a United States Magistrate Judge for [court or jury] trial:

None.

E. DISCLOSURES

11. The parties certify that they have made the following disclosures [list disclosures of persons, documents, damage computations and insurance agreements]:

Pending this Court's ruling on the Defendants' motions to dismiss, the Defendants have not yet made initial disclosures to Plaintiff.

F. EARLY FILING OF MOTIONS

12. The following motions expected to have a significant effect either on the scope of discovery or other aspects of the litigation shall be heard by the date specified below:

Defendants identify their motions to dismiss, which are currently under submission to this Court.

1 **G. DISCOVERY**

2 13. The parties agree to the following discovery plan [Describe the plan e.g., any
 3 limitation on the number, duration or subject matter for various kinds of discovery; discovery from
 4 experts; deadlines for completing discovery]:

5 a) Disclosure of identities of all witnesses to be called in each party's case-in-chief to be
 6 exchanged by: February 2, 2009

7 b) Fact discovery, including subpoenas for documents, document requests, depositions,
 8 interrogatories, requests for admissions and depositions, to be completed by: March 13, 2009.

9 c) The parties do not anticipate any expert disclosures or discovery in this matter.

10 **H. PRETRIAL AND TRIAL SCHEDULE**

11 14. Requested trial date: June 22, 2009.

12 15. Anticipated length of trial: Three (3) days.

13 16. Type of trial: Court.

14 17. Final pretrial conference: June 12, 2009.

15 18. Joint pretrial conference statement and proposed pretrial order: June 5, 2009.

16 19. Objections to exhibits or testimony: June 12, 2009.

17 20. Deadline to hear motions directed to the merits of all or part of the case: May 26,

18 2009.

19
 20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

K. IDENTIFICATION AND SIGNATURE LEAD TRIAL COUNSEL

DATED: August 28, 2008

REED SMITH LLP

By /s/ Scott H. Jacobs

Scott H. Jacobs
Christopher O. Rivas
Attorneys for Defendants
WMC MORTGAGE, LLC AND
GE CONSUMER FINANCE, INC.

DATED: August 28, 2008

LAW OFFICE OF DANIEL A. GAMER

By /s/ Glenn D. Kabanuck

Daniel A. Gamer
Glenn D. Kabanuck
Attorneys for Defendant
CALIFORNIA LAND TITLE OF
MARIN

DATED: August 28, 2008

WRIGHT, FINLAY & ZAK, LLP

By /s/ Robin P. Wright

Robin P. Wright
Attorneys for Defendant
SELECT PORTFOLIO
SERVICING, INC.

REED SMITH LLP
A limited liability partnership formed in the State of Delaware

CASE MANAGEMENT ORDER

The Court finds that each party was represented by lead trial counsel responsible for trial of this matter and was given an opportunity to be heard as to all matters encompassed by this Joint Case Management Statement and Proposed Order filed prior to the conference.

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order.

Dated: _____, 2008

United States District/Magistrate Judge

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is REED SMITH LLP, 355 S. Grand Avenue, Suite 2900, Los Angeles, CA 90017.

On August 28, 2008, I electronically filed the following document(s) with the Clerk of the Court using the CM/ECF system, which sent electronic notification of such filing to all other parties appearing on the docket sheet, as listed below.

**JOINT CASE MANAGEMENT STATEMENT
OF DEFENDANTS; PROPOSED ORDER**

☒ by transmitting via email to the parties at the email addresses listed below:

Daniel A. Gamer dan@gamerlaw.com, pat@gamerlaw.com

Glenn David Kabanuck glenn@gamerlaw.com

Robin Prema Wright rwright@wrightlegal.net, ggrant@wrightlegal.net

☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.

Patricia C. Barbera

24 Caribe Isle

Novato, CA 94949

Telephone: (415) 382-9617

Facsimile: (415) 382-0756

In Pro Per

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on August 28, 2008, at Los Angeles, California.

/s/ Donna Martin

Donna Martin